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10/564,145

01/10/2006

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09/30/2008

EXAMINER

LOPEZ, MICHELLE

ART UNIT

PAPER NUMBER

3721

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DELIVERY MODE

09/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/564,145 | Applicant(s) STEINKE, HUBERT | |
| | Examiner Michelle Lopez | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/21/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is in response to the amendment filed on June 24,, 2008.
2. Claim 3 has been canceled and new claims 13-22 have been added.

Specification

3. The abstract of the disclosure is objected to because it is in claim format. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claims 1-2, 4-5, 7-10, 12-13, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Meixner 7,076,838.** Meixner discloses the claimed hand-held power tool handle device with a vibration-shielding unit and a guide device (5, 7) for guiding a motion of a handle element (3) which is movable relative to the power tool body, wherein the motion is at least

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substantially along a straight line, and wherein the guide device is characterized by at least two force-transmission elements (19, 21) which cross over each other. Note that the bars (19, 21) overlap at their end points as shown in figs. 2-3, meaning that such end points extent over each other or past and cover a part of each other (claim 1). The handle element (3) is positioned at a distance away from the power tool body (11) (claim 2). The force-transmission elements are interconnected in a pivoting manner by a connecting element (39) located in a central region of the bars end points (claims 4-5). Each of the force-transmission elements (19, 21) is displaceable supported at one end at the vicinity of (35, 37) (claim 7). One return element and/or elastically deformable impact- absorption element (15, 17) for returning the handle element (claims 8-9). The return element and the impact absorption element are configured as a single component, i.e. a spring (claim 10).

With respect to claim 13, Meixner shows wherein at least a part of one of the first transmission elements, at an end point connected to (5 or 7), extends in a longitudinal direction of said first force-transmission element more than a width of the other force-transmission element (19, 21) over a cross-over point (39).

With respect to claim 16, Meixner does not specifically disclose wherein the distance between the handle element (3) and the tool body (1) has a value between 1 cm and 1.5 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provide said distance values as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 6, 11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meixner et al. 7,100,706 in view of Weber GB 2171045A.** Meixner discloses the claimed power tool handle device as discussed above, but fails to disclose wherein at least one of the force-transmission elements (19, 21) is supported on at least one end such that it is displaceable in a direction extending perpendicular to the direction of motion. Weber discloses a hand-held power tool handle device comprising a vibration-shielding unit via (15) and a guide device via (11c,17,18) for guiding a motion of a handle element (12) which is movable relative to the power tool body (11) with a motion substantially along a straight line, and two force-transmission elements (15) supported on at least one end (at the vicinity of 17) that are displaceable in a direction extending perpendicular to the direction of motion of the handle element for the purpose of efficiently preventing transmission of vibrations generated in the body to the handle. It would have been obvious to one having ordinary skill in the art to have provided Meixner's force-transmission elements supported on at least one end such that it is displaceable in a direction extending perpendicular to the direction of motion as taught by Weber in order to efficiently prevent transmission of vibration to the handle.

With respect to claims 11 and 19, Weber shows a return element (8) engaging with the force-transmission elements (5).

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6. **Claims 14-15, 17-18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meixner et al. 7,100,706 in view of Smith 707,803.** Meixner discloses the claimed power tool handle device comprising force-transmission elements (19, 21) as discussed above, but fails to disclose wherein one of said force-transmission element (19, 21) divides the other into equal halves. Smith teaches the concept of a device comprising two housing parts movable together by a transmission configuration having two bars (5, 6) crossing over each other at connecting element (7) located on a central point of both bars, wherein said bars are divided into equal halves at said connecting element for the purposes of providing a scissors-type motion. It would have been obvious to one having ordinary skill in the art to have provided at least one of the Meixner's force transmission elements dividing the other transmission element into equal halves as taught by Smith in order to provide a scissors-type motion.

With respect to claim 15, Smith shows wherein the two bars (5, 6) form an x-shape.

With respect to claim 20, Smith shows wherein each of the bars (5, 6) extends from a first bolt (at the vicinity of 5L and 6L) via a connecting element (7) to a second bolt (8, 9) which is arranged opposite to the first bolt.

With respect to claims 21-22, Smith shows wherein each of the bars (5, 6) is displaceable supported in a second bolt (5, 9), wherein said second bolt is engaged in a slot (3); and wherein a limitation of a movement of the bars (5, 6) is mediated by an end of the slot (3) as shown in fig.

1.

Response to Arguments

7. Applicant's arguments filed June 24, 2008 have been fully considered but they are not persuasive. Applicant contends that Meixner does not show levers which cross over each other,

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wherein “cross over each other” means that they intersect with each other. This is not found persuasive as claims are given their broadest reasonable interpretation consistent with the specification. In this instance, claim 1 does not specify that the force-transmission elements extend in a longitudinal direction of each other. It merely recites “two force-transmission elements which cross over each other”. It is the Examiner position that Meixner, indeed, shows two bars 19 and 21 which cross over each other at an end point of said bars, meaning that said end points overlap or cover a part of each other.

8. Therefore, for the reasons above, the grounds of rejection are deemed proper.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the attached PTO-892 for related art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/

Patent Examiner

/Rinaldi I Rada/

Supervisory Patent Examiner, Art Unit 3721